

Cem

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

07 DEC 26 AM 10:58

UNITED STATES OF AMERICA,

Plaintiff,

v.

Josue ALAYA-Zacarias

Defendant.

Magistrate Case No.

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1326

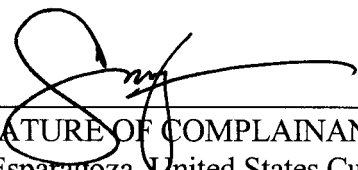
Attempted Entry After

Deportation

The undersigned complainant being duly sworn states:

On or about **December 22, 2007** within the Southern District of California, defendant **Josue ALAYA-Zacarias**, an alien, who previously had been excluded, deported and removed from the United States to **Guatemala**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **Tecate Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS **26th** DAY OF **December**, 2007.


UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Michael Pederson, declare under penalty of perjury the following to be true and correct:

On December 22, 2007 at approximately 2:45 PM, Josue ALAYA-Zacarias, the Defendant, applied for admission to the United States at the Tecate Port of Entry, through the primary pedestrian lanes. Defendant presented his I-551 Resident Alien Card to a CBP Officer. The CBP Primary Officer queried Defendants' I-551 Resident Alien Card through the Interagency Border Inspection System (IBIS) and received a positive match to the query. The CBP Officer suspected that Defendant was a prior deported alien and referred Defendant to the pedestrian secondary area for further inspection.

During secondary inspection, a CBP Officer queried Defendants' fingerprints in the Integrated Automated Fingerprint Identification System (IAFIS) and Automated Biometric Identification System (IDENT) reflecting Defendant was a citizen of Guatemala, having been previously deported.

Defendant was advised of his Miranda rights and agreed to answer questions without counsel. Defendant admitted to trying to enter the United States after being deported by an Immigration Judge, and that he was intending to travel to Los Angeles, Ca, to find work. Defendant also admitted to being a citizen of Guatemala, without any rights or entitlements to either, enter, pass through, or reside in the United States. Defendant further admitted that he had been deported by an Immigration Judge from the United States to Guatemala in February of 2005, and that he has neither applied for nor received permission to legally reenter the United States from the United States Attorney General or the Secretary of Homeland Security. Defendant further admitted that when he was asked by Immigration Officials after his deportation about the I-551 Resident Alien Card, he refused to relinquish the card.

Further queries in the Immigration Central Index System (CIS) and the Deportable Alien Control System (DACS) confirmed the Defendant was found to be deportable by an Immigration Judge on February 3, 2005 and physically removed to Guatemala via the Joint Prisoner Alien Transportation System (JPATS) on June 29, 2005. Immigration records indicate the Defendant has neither applied for nor received permission to legally reenter the United States from the United States Attorney General or the Secretary of Homeland Security.

EXECUTED ON THIS 22nd DAY OF December 2007 AT 10:00 PM.

 #16151

Michael Pederson / CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (01) page(s), I find probable cause to believe that the defendant named therein committed the offense on **December 22, 2007**, in violation of Title 8, United States Code, Section 1326.


MAGISTRATE JUDGE

12/23/07 - 1039Am
DATE / TIME